IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Alexandria Division

JAMES TOLLE,)
Plaintiff,)
v.) 1:20-cv-363 (LMB/MSN)
GOVERNOR RALPH NORTHAM and the COMMONWEALTH OF VIRGINIA,)))
Defendants.	Ć

ORDER

Proceeding pro se, plaintiff James Tolle ("plaintiff" or "Tolle") has filed a complaint against Governor Ralph Northam and the Commonwealth of Virginia ("defendants") under 42 U.S.C. § 1983, alleging that Governor Northam's Executive Order 55, entitled Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19) ("the Executive Order"), violates plaintiff's rights under the First, Fourth, and Fourteenth Amendments to the United States Constitution. The novel Coronavirus has been declared a pandemic and a national emergency. Accordingly, many governors have issued stay-at-home orders to protect their citizens.

Virginia's Executive Order imposes certain requirements from March 30, 2020 until June 10, 2020, including banning all public and private in-person gatherings of more than ten individuals, and requiring individuals using shared or outdoor spaces to maintain social distancing of at least six feet from any other person, with certain exceptions.

Plaintiff is a practicing member in a lay ministry at his church in Gainesville, Virginia, and he claims that the Executive Order interferes with many of his constitutional rights, including the free exercise of religion, freedom of assembly, and the rights to liberty, equal protection, and substantive due process. Plaintiff has filed a Motion for Preliminary Injunction

and Expedited Hearing, in which he seeks a whole or partial stay of execution of the Executive Order. He also seeks declaratory relief, a permanent injunction, and damages and fees. Finally, he requests that the Court order service of the complaint on defendants by the United States Marshals Service pursuant to Federal Rule of Civil Procedure 4(c)(3).

It is clear from a review of plaintiff's complaint and motion that the only current emergency is the one caused by the Coronavirus. In these exigent and extraordinary circumstances, putting members of the United States Marshals Service at risk to serve this complaint would be inappropriate. Nor is an expedited hearing warranted, given that the Chief Judge for this district has issued General Order 2020-07, which postpones all civil and criminal in-person proceedings through May 1, 2020 due to the virus. Accordingly, it is hereby

ORDERED that plaintiff's Motion for Preliminary Injunction and Expedited Hearing [Dkt. No. 3] be and is DENIED; and it is further

ORDERED that plaintiff's Motion for Service of Complaint by U.S. Marshal Service [Dkt. No. 2] be and is DENIED.

The Clerk is directed to forward copies of this Order to plaintiff, pro se.

Entered this 1 st day of April, 2020.

Alexandria, Virginia

Leonie M. Brinkema

United States District Judge